

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
In re : **Chapter 11 Case No.**
:
LEHMAN BROTHERS HOLDINGS INC., et al., : **08-13555 (JMP)**
:
Debtors. : **(Jointly Administered)**
-----x

**STIPULATION, AGREEMENT, AND ORDER
BETWEEN THE DEBTORS AND D.E. SHAW ADJOURNING
THE JOINDER TO THE MOTIONS FOR LEAVE TO CONDUCT RULE
2004 DISCOVERY OF LEHMAN BROTHERS HOLDINGS INC. AND OTHERS**

This stipulation, agreement, and order (“Stipulation, Agreement, and Order”) is entered into by and between D. E. Shaw Composite Portfolios, L.L.C., D. E. Shaw Oculus Portfolios, L.L.C., and their affiliates (collectively, “D.E. Shaw”) and Lehman Brothers Holdings Inc. (“LBHI”) and its affiliated debtors in the above-referenced chapter 11 cases, as debtors and debtors in possession (together, the “Debtors”).

RECITALS

A. On September 15, 2008 and periodically thereafter (as applicable, the “Commencement Date”), LBHI and certain of its subsidiaries commenced with this Court voluntary cases under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”). The Debtors’ chapter 11 cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Rule 1015(b) of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”). The Debtors are authorized to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. On September 17, 2008, the United States Trustee for the Southern District of New York appointed the statutory committee of unsecured creditors pursuant to section 1102 of the Bankruptcy Code.

B. On September 26, 2008, Harbinger Capital Partners Special Situations Fund, L.P. and Harbinger Capital Partners Master Fund I, Ltd., f/k/a Harbert Distressed Investment Master Fund, Ltd. filed a Motion for Leave to Conduct Rule 2004 Discovery of Debtor Lehman Brothers Holdings Inc. [Docket No. 373], and filed a supplement to such on October 10, 2008 [Docket No. 816] (collectively, the "Harbinger Motion").

C. On September 29, 2008, the Newport Global Opportunities Fund LP, Newport Global Credit Fund (Master) L.P., PEP Credit Investor L.P. and Providence TMT Special Situations Fund L.P. [Docket No. 857] filed a Motion for Leave to Conduct Rule 2004 Discovery of Debtor Lehman Brothers Holdings Inc. and Other Entities [Docket No. 435], and filed a supplement to such on October 13, 2008 [Docket No. 857] (collectively with the Harbinger Motion, the "2004 Motions").

D. On October 12, 2008, the Debtors filed an opposition to the 2004 Motions and the joinders thereto [Docket No. 837].

E. On October 15, 2008, D.E. Shaw filed a joinder to the 2004 Motions [Docket No. 1040] (the "Joinder").

F. At the October 16, 2008 hearing on the 2004 Motions, the Debtors and D.E. Shaw (the "Parties") agreed to adjourn the hearing on the Joinder until November 5, 2008 in an attempt to resolve D.E. Shaw's request consensually.

G. The Parties have met and conferred in an effort to resolve the Joinder.

H. In light of the events described herein, the Parties agree that it is in their mutual best interests to adjourn the Joinder.

STIPULATION, AGREEMENT AND ORDER

NOW, THEREFORE, IT IS HEREBY STIPULATED, AGREED, AND ORDERED by and between the Debtors and D.E. Shaw, through their undersigned counsel, that:

1. The Joinder is hereby adjourned *sin die* without prejudice, subject to the provisions of this Stipulation, Agreement, and Order.
2. D.E. Shaw may reschedule the Joinder by filing of a notice of hearing with the Court (the “Notice”) and serving such Notice in accordance with the Order Pursuant to Section 105(a) of the Bankruptcy Code Order Implementing Certain Notice and Case Management Procedures signed on September 22, 2008 [Docket No. 285] (the “Case Management Order”) upon 14 days prior written notice to the Debtors. Objections and responses to the Notice shall be filed in accordance with the Case Management Order.
3. This Stipulation, Agreement, and Order contains the entire agreement between the Parties relating to the subject matter thereof.
4. This Stipulation, Agreement, and Order can only be amended or otherwise modified by a signed writing executed by the Parties.
5. The person who executes this Stipulation, Agreement, and Order by or on behalf of each respective Party represents and warrants that he or she has been duly authorized and empowered to execute and deliver this Stipulation, Agreement, and Order on behalf of such Party.
6. This Stipulation, Agreement, and Order may be executed in counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same

instrument, and it shall constitute sufficient proof of this Stipulation, Agreement, and Order to present any copy, copies, or facsimiles signed by the Parties here to be charged.

7. This Stipulation, Agreement, and Order shall be governed by the laws of the State of New York, without regard to the application of New York's conflict of law principles.

Dated: November 3, 2008
New York, New York

/s/ Thomas J. Maloney
Thomas J. Maloney
Avram Luff

CLEARY GOTTLIEB STEEN & HAMILTON LLP
One Liberty Plaza
New York, NY 10006
Phone: (212) 225-2000
Fax: (212) 225-3999

Attorneys for D. E. Shaw Composite Portfolios, L.L.C.,
D. E. Shaw Oculus Portfolios, L. L. C., and their affiliates

Dated: November 5, 2008
New York, New York

/s/ Shai Y. Waisman
Harvey R. Miller
Richard P. Krasnow
Lori R. Fife
Shai Y. Waisman
Jacqueline Marcus
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Telephone: (212) 310-8000
Facsimile: (212) 310-8007
Attorneys for Debtors and Debtors in Possession

SO ORDERED this 6th day of November, 2008

s/ James M. Peck
UNITED STATES BANKRUPTCY JUDGE